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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,702	02/20/2002	Yiu Lau Lam	APB2922US	8673

7590 01/30/2004

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EXAMINER

ILDEBRANDO, CHRISTINA A

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/079,702

### Applicant(s)

LAM ET AL.

### Examiner

Christina Ildebrando

### Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 6 is/are rejected.
- 7) ☒ Claim(s) 2,4,5,7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group I, claims 1-8 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 9-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse.

### *Claim Objections*

3. Claim 6 is objected to because of the following informalities: line 2, missing comma after "alumina". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wachter.

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Wachter (US 5,221,648) discloses a catalyst composition useful in the catalytic cracking of hydrocarbons. The catalyst composition comprises a matrix material and a zeolite having uniform pores with diameters ranging from about 4-15 angstroms (column 2, lines 50-65). The matrix material comprises silica, alumina, and a clay component such as kaolin (column 2, line 65 – column 3, line 10). It is taught that the matrix material includes pores having diameters in the range of 20-200 angstroms (column 3).

With respect to the language of the claims, the zeolite taught by Wachter is considered to correspond to Catalyst A and the matrix material taught by Wachter is considered to correspond to Catalyst B. The matrix material will necessarily have a larger average pore volume in pores having diameter of 20-200 angstroms. When the examiner has reason to believe that the functional language asserted to be critical for establishing novelty in claimed subject matter may in fact be an inherent characteristic of the prior art, the burden of proof is shifted to Applicants to prove that the subject matter shown in the prior art does not possess the characteristics relied upon. *In re Fitzgerald et al.* 205 USPQ 594.

With respect to claim 3, the reference teaches an average pore diameter in pores having a diameter in the range of 20-200 angstroms which meets the instant claims. Refer to the Figures, column 3, and the Examples.

As each and every element of the claimed invention is taught in the prior art as recited above, the claims are anticipated by Wachter.

***Allowable Subject Matter***

6. Claims 2, 4-5, and 7-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach or suggest the claimed relationship between the pore volume of catalyst A with respect to catalyst B, as required by claim 2. The prior art of record does not teach or suggest a catalyst composition wherein cracking catalyst A has the composition required by claim 4. The prior art of record does not teach or suggest a catalyst composition wherein cracking catalyst B comprises 5-15% by weight zeolite, as required by claim 7. The prior art of record does not teach or suggest a catalyst composition wherein catalyst B comprises 1-15% by weight of a rare earth metal oxide as required by claim 8.

***Conclusion***

8. The original Declaration is unsigned. Applicant is requested to re-file a copy of the executed Declaration, as filed May 1, 2002.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

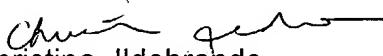
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Ildebrando whose telephone number is (571)

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272-1176. The examiner can normally be reached on Monday-Friday, 7:30-5, with Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

  
Christina Ildebrando  
Patent Examiner  
Art Unit 1725  
1/21/04

CAI  
January 21, 2004